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KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
April 22, 2008**

Present: Commissioners Lythgoe and Notbohm; Mike Hoffman, County Planner; Bill Lloyd, Great West Engineering; Dave Kirsch, Dennis Lay, John Gornick, Joe and Carrie Robertson

Absent: Commissioner Weber

MINUTES

Commissioner Lythgoe moved to approve the minutes of April 8. Commissioner Notbohm seconded. The motion carried.

Commissioner Lythgoe moved to approve the minutes of April 15. Commissioner Notbohm seconded. The motion carried.

CALENDAR REVIEW

4/24 Juvenile Detention meeting - Galen - noon
Zoning Commission - 4:00
Health Board - 6:00
4/28 Center for Mental Health - Great Falls - 10:30

COMMISSION REPORTS

ELKHORN MINE CITIZEN ADVISORY GROUP

Commissioner Lythgoe reported that he attended an Elkhorn Mine Citizen Advisory Group meeting on Thursday. They are waiting for the EIS to come out, and they are hoping that this would happen this week, and that they can begin mining in June.

JLDC

Commissioner Lythgoe reported on the JLDC meeting. They met at the fairgrounds in the new building, which is a very nice meeting space. The meeting was mostly business as usual. They discussed the industrial park in the Whitehall area. They are waiting for decisions from Golden

Sunlight. Their plan has been approved, but they are waiting for a decision from the corporate office.

TRI-COUNTY FIRE WORKING GROUP

Commissioner Lythgoe reported on Tri-co fire on Thursday. They are getting organized for this year's defensible space program, which is very popular. Pat McKelvey has been very successful in getting a lot of mitigation projects done in Lewis and Clark and Jefferson Counties, and a few in Broadwater. There are several grants that are being used to fund these projects.

MONTANA TUNNELS ADVISORY GROUP

Commissioner Lythgoe reported on the MTAG meeting held on Thursday night. They are still waiting for a decision on the EIS.

WALK-THROUGH OF FORMER WAGNER PROPERTY

Commissioner Lythgoe reported they had a walk-through of the former Wagner property with three architects on Monday. They also looked at Justice Court, who also has some space needs.

CORRESPONDENCE

Commissioner Lythgoe noted that the Commission as received two contracts; one for weed control on roads and rights-of-way and one for weed control on county lands, streets within cities, public use sites, trust fund projects, enforcement activities and federal assistance agreements. Commissioner Lythgoe moved to sign the contracts. Commissioner Notbohm seconded. The motion carried.

SUBDIVISION REVIEW

PRELIMINARY PLAT APPROVAL – GORNICK MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report on this one-lot split located east of Whitehall. The parcel contains approximately 5 acres. It is proposed to split the parcel into two tracts, ranging in size from 1.67 to 3.33 acres. The developer will provide a cash-in-lieu donation to the fire department. Mike recommended that preliminary plat approval be granted.

Commissioner Notbohm moved to grant preliminary plat approval to the Gornick Minor subdivision. Commissioner Lythgoe seconded. The motion carried.

PRELIMINARY PLAT APPROVAL – GOLDEN HILLS MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report on this one-lot split located west of Jefferson City. The parcel contains 7 acres, and it is proposed to split the parcel into two tracts measuring 3.39 and 3.61 acres. Mike stated that the roads within this subdivision are currently being constructed within the Meadowlark Ridge major subdivision, which will provide both primary and secondary access. Commissioner Lythgoe asked if we have an engineered road plan. Mike stated that we do. He noted that it is the Planning Department's recommendation

that the developer opt for the cash-in-lieu payment of a water supply facility. He has not been contacted by Zion Madison, the Jefferson City Fire Chief, but he believes that the developer is willing to do this. Mike recommended that preliminary plat approval be granted.

Commissioner Notbohm asked if the only thing needed is from the fire department. Mike noted that the developer has provided a water supply for the major subdivision. Obviously, this two-lot subdivision could be serviced by that system. Commissioner Notbohm stated that a cash-in-lieu payment would still be required. Commissioner Lythgoe stated that the developer has expressed a willingness to do this. If they don't hear from the fire chief in a timely manner, they can't hold the developer up as a result of that. Mike asked for clarification if the Commission will require a cash-in-lieu donation. Commissioner Lythgoe stated that this is correct.

Commissioner Notbohm moved to grant preliminary plat approval to the Golden Hills Minor subdivision. Commissioner Lythgoe seconded. The motion carried. Dennis Lay, the developer, stated that he is willing to make a cash-in-lieu donation, but he would like something definite and not leave this open-ended. He is only creating one lot, and he feels that he should only be charged for that one lot. Mike stated that these are pro-rated on \$800 per five acres, and these lots are less than that. He estimated that it would be approximately \$650 per lot. This will be considered two lots, as it is a subdivision, not a boundary relocation or family conveyance. Dennis stated that he is okay with this.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

PUBLIC HEARING – PETITION FOR ANNEXATION OF ADJACENT PROPERTY INTO THE BULL MOUNTAIN FIRE DISTRICT

Commissioner Lythgoe called the public hearing to order. The Commission has received a petition from several citizens requesting to be annexed into the Bull Mountain Fire District. The petition was approved by the trustees of the fire district, and the petition has been certified by the Clerk and Recorder. Commissioner Lythgoe called for comment. Hearing none, he closed the public hearing.

RESOLUTION 19-2008 ANNEXATION OF ADJACENT PROPERTY INTO THE BULL MOUNTAIN FIRE DISTRICT

Commissioner Lythgoe read the resolution as follows:

RESOLUTION 19-2008

RESOLUTION ANNEXING ADJACENT TERRITORY TO THE BULL MOUNTAIN RURAL FIRE DISTRICT

WHEREAS, pursuant to § 7-33-2125, MCA, the Board of County Commissioners received a petition requesting the annexation of certain lands adjacent to the Bull Mountain

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Rural Fire District in Jefferson County. The matter having been published legally on April 9 and April 16, 2008 and now this matter having come before the Board of County Commissioners of Jefferson, Montana for hearing on April 22, 2008 at 2:00 pm; with said Board of County Commissioners having held an open meeting, heard statements and evidence and having reviewed the Petition and various other documents and maps; and with the said Board of County Commissioners being duly advised in the premises; and,

WHEREAS, the Board of County Commissioners of Jefferson County, Montana, has received a written Petition, signed by fifty percent (50%) or more of the owners of the area of privately owned lands proposed to be annexed, seeking the annexation to the Bull Mountain Rural Fire District of adjacent lands; and that said Petition appears to be in proper form and free from legal defect in all respects; and,

WHEREAS, the area subject to the said Petition constitutes lands adjacent to the existing Bull Mountain Rural Fire District that said area and lands are not already part of any fire district; and,

WHEREAS, the area of adjacent lands, subject to the Petition, are described in Exhibits “A” and “B” hereto, which exhibits are by this reference incorporated in these Findings and made a part hereof; and that Exhibit “B” includes a map of the area as an attachment; and,

WHEREAS, the Clerk and Recorder of Jefferson County, has examined said Petition and has determined that the same has been signed by the owners of fifty percent (50%) or more of the said area of adjacent, privately owned lands; and the said Clerk and Recorder has further certified to this Board of County Commissioners that the signers of the Petition constitute a majority of the taxpaying freeholders, within such area, whose names appear on the last completed assessment roll; and,

WHEREAS, the said Petition has been presented to the Board of Trustees of the Bull Mountain Rural Fire District and has been approved by said Trustees; and that said Trustees are willing and able to provide fire protection services to the area subject to the Petition; and,

WHEREAS, due and proper notice of the hearing of said Petition, was duly published in the *Whitehall Ledger*, the newspaper designated by the Jefferson County Board of County Commissioners, respectively, for the publication of legal notices, in the manner required by law; and,

WHEREAS, the Board of County Commissioners has received no written protest petition, nor any other written or oral objections to the proposed annexation of adjacent lands; and,

WHEREAS, pursuant to § 7-33-2125, MCA, the annexed territory is required to become liable for outstanding warrants and/or bonded indebtedness, if any, of the original district.

NOW, THEREFORE, on the basis of the foregoing findings, this Board of County Commissioners of Jefferson County, Montana, hereby resolves:

- A. That this Board of County Commissioners has jurisdiction over the subject Petition and over these proceedings.
- B. That the area described in Exhibits “A” and “B” (including the map) which are adjacent to the existing Bull Mountain Rural Fire District, ARE ANNEXED to the said Bull Mountain Rural Fire District.
- C. That, hereafter, at all times and for all purposes, the Bull Mountain Rural Fire District shall comprise and include not only those lands presently included within said Fire District’s boundaries, but also all of the privately owned lands described in Exhibits “A” and “B” hereto.
- D. That such annexed lands and territory shall be hereafter liable for any outstanding warrants and any bonded indebtedness of the original Bull Mountain Rural Fire District per statutory requirements.

DATED this 22nd day of April, 2008.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

CHUCK NOTBOHM, COMMISSIONER

TOM LYTHGOE, COMMISSIONER

Commissioner Notbohm asked if we have a percentage of signers. It was noted that there are three lots that did not sign. Commissioner Notbohm stated that it is close to 75% of the landowners.

Joe Robertson stated that last year, Cataract Fire was given 27 square miles to the north and east of Basin, up High Ore Creek. He asked if the County went through this procedure at that time. Commissioner Lythgoe stated that we can discuss this, but not at this time. Joe asked if this portion of Bull Mountain has anything to do with Ed Betka's fire department. Commissioner Lythgoe stated that it does not. Joe stated that he misunderstood. He asked if landowner's have the option to present a petition to be taken out of Ed Betka's area. Commissioner Lythgoe stated that this is a question for the Clerk and Recorder. This is an entirely different setup than Cataract Fire. Bull Mountain has the ability to tax people; Cataract does not. Cataract Fire has been designated as an area that he has voluntarily offered to protect. Joe stated that the problem he has with it was no one was ever asked about it before it happened.

Commissioner Notbohm moved to adopt the resolution. Commissioner Lythgoe seconded. The motion carried.

DISCUSS AND DECIDE ON ACTIONS FOR EPA MITIGATION PLAN AT BERNICE

Bill Lloyd, Great West Engineering, stated that as requested, his firm prepared a response to an EPA violation notice for the Bernice area project. They submitted it to the EPA at the end of December. They received conditional approval of the remediation plan, with a couple stipulations. The first is that we submit a monitoring plan to ensure that whatever is done will not result in further violation. They have also requested that a schedule be put together and submitted, and that site 5 be revisited. Bill stated that Great West had a wetlands biologist out there looking for any sign of a wetland area, and he could find no wetlands at site 5. The EPA is having a hard time accepting that, so they will need to have him go out and review site 5 again, before June 15. If signs of a wetland are found, they will need to develop a remediation plan for that area. If not, they will need to submit a letter to the EPA stating that once again, they found no indication of wetlands at site 5. Beyond that, we need to submit and receipt all applicable permits and we need to stick to our schedule. He has prepared a letter to Ken Champagne of the EPA which includes the time line, etc. He feels that it will give us quite a bit of time. Great West will submit permits, order culverts and construction should be scheduled to take place mid-July through early August. At that point, they would submit the monitoring report to the EPA. Commissioner Notbohm asked about the culvert that will be needed, and if this is for the ladder for fish. Bill stated that this is correct. Commissioner Notbohm asked about permits. Bill stated that we will need permits from Corps of Engineers and Fish, Wildlife and Parks. The contractor would likely have to get a storm water discharge permit from DEQ. Permits would be gotten in the name of the county if county crews are to do the work, or would be transferred to the contractor if the work is to be contracted out. This is certainly something that the county crews could take on. Commissioner Lythgoe stated that they had discussed the county crews doing the work, and asked Bill if he has spoken with Joe about the schedule. Bill stated that Joe is aware of the schedule and doesn't seem concerned. Commissioner Notbohm noted that the original

project was never completed, and asked if the continuation of the project was addressed. Bill stated that there was no discussion as far as completion of the project. The only discussion in the remediation plan was regarding the work to be done to fix the violations. Bill stated that there is certainly a heightened awareness of this project, so extra caution will be needed during the remediation, and extra caution will be needed when it comes to permitting.

Bill stated that the schedule is due to be submitted to the EPA by Friday, and he would request that the Commission approve the submission of that. The Commissioners told Bill to go ahead with the submission. Commissioner Notbohm noted that there is a way to conduct yourself around water, and whoever does the work needs to know what they are doing. Bill stated that this will be outlined in the permits. He also stated that they have never been directed to prepare the permit applications and obtain the permits, and asked if the Commission wants them to do that. Commissioner Lythgoe asked if this is something that Joe would do. Bill stated that this is probably something that Joe has never had to deal with, given the scope of the project, so it might be best if Great West do the permit. The Commissioners asked Bill to go ahead with obtaining the permits.

Bill stated that the EPA has been pleased with what they have submitted so far, and they do have conditional approval.

2008 TSEP BRIDGE GRANT APPLICATION

Bill stated that he sat down with Bonnie the previous day and went over financials, so he has a pretty good idea of where we stand in that regard. Commissioner Lythgoe asked Bill if he found out anything regarding what they consider our pot of gold. Bill said that financial need is the second-highest weighted criteria for the grant. Forty percent of the points available in that criterion are based on median household income of the county, as bridges are considered a county-wide infrastructure. Bill explained the process to obtain income per bridge. He noted that there are a couple of things working against us - Jefferson County only maintains 48 bridges. Jefferson County also had a lot of unallocated PILT funds in 2006. This time, PILT funds are much lower, so this will help tremendously. He will let them know that metal mines funds are not able to be used for bridges. Commissioner Notbohm stated that there are only a certain amount of funds that can be used for the bridge fund. Bill stated that the county isn't milling any bridge mills, but is milling the maximum mills. Bonnie explained that the general mills can be moved around, but if we were to move mills into bridge, we will have to cut programs elsewhere, and they feel that they can successfully argue this in the application.

Bill stated that we are gaining points in a lot of areas, but the legislature didn't do us a favor last session; we would have been funded anyway last time. Bill noted that he will be coming back in January when the legislature is in session and asking the Commission to contact their legislators and ask them to fix what they broke last time.

DISCUSS AND DECIDE ON REQUEST FROM JOHN SCHROEDER TO WAIVE WEED PERMIT FEE

Commissioner Lythgoe stated that John is working to obtain permits for mining. He is asking that the open pit fee for weed control be waived. Commissioner Lythgoe read an e-mail from Sam Little, Weed Coordinator, outlining the Weed Board's conditions of approval. (On file in the Clerk and Recorder's office.) Commissioner Notbohm stated that if John abides by the Weed Board's guidelines, he has no problem with it. Commissioner Lythgoe stated that apparently, in talking to John, this is a small area that a dredge didn't hit. Commissioner Lythgoe moved to follow the weed supervisor's recommendation that this fee be waived, if conditions 1, 2, 3 and 4 are met. Commissioner Notbohm seconded. The motion carried.

Commissioner Notbohm moved to adjourn. Commissioner Lythgoe seconded. the motion carried.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER